



**BAC 7710-FW-P**

**POSTAL REGULATORY COMMISSION**

**[Docket No. MC2014-26; Order No. 2091]**

**New Price Category**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing requesting the addition of Gift Cards to the competitive product list as a price category to the Greeting Cards and Stationery product. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* July 3, 2014. *Reply Comments are due:* July 17, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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##### I. Introduction

The Postal Service is currently selling American Express gift cards at about 5,000 post offices throughout the United States pursuant to a market test extension authorized by the Commission that is scheduled to expire on June 27, 2014.<sup>1</sup> On June 9, 2014, the Postal Service filed a request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, to add Gift Cards to the competitive product list as a price category to the Greeting Cards and Stationery product.<sup>2</sup> It proposes that the product name be changed to Greeting Cards, Gift Cards, and Stationery in the competitive product list. Request at 1.

##### II. Postal Service Filing

*Request for an interim order.* Recognizing that the Commission may not be able to complete its review of the Request by the expiration of the market test, the Postal Service requests that the Commission issue an interim order before June 27, 2014, allowing the Postal Service to continue selling the open loop cards currently available at post offices until a final order is issued in this proceedings. *Id.* at 1-2. Absent such an order, the Postal Service states that

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<sup>1</sup> Docket No. MT2011-2, Order Granting Extension of Gift Card Market Test, July 19, 2013 (Order No. 1781). The market test was initially authorized by Order No. 721, Order Authorizing Gift Card Market Test, April 28, 2011. Market tests are limited to 24 month's duration with a possible extension not to exceed an additional 12 months. 39 U.S.C. 3641(d).

<sup>2</sup> Request of the United States Postal Service to Add Gift Cards as a New Price Category in the Greeting Cards and Stationery Product, June 9, 2014 (Request).

requiring it “to pull these gift cards from Post Offices pending a final order in this proceeding” would be inefficient and harmful to customers. *Id.* at 2.<sup>3</sup>

*The Postal Service Request.* The Request includes a copy of the Governors’ Decision and Certification (Attachment A), a Statement of Supporting Justification to demonstrate the Request meets the criteria in 39 U.S.C. 3642 (Attachment B) and proposed Mail Classification Schedule (MCS) language (Attachment C). The Postal Service also filed on June 9, 2014 a notice of filing a non-public library reference with estimated cost coverage calculations in an Excel workbook with revenue and cost information together with an Application for Non-Public Treatment for the protection of the information as Attachment A to the Notice.<sup>4</sup>

The Statement of Supporting Justification (Request, Attachment B) filed through Betty Y. Su, Executive Director of Brand Marketing, states that the Gift Cards service (as part of the Greeting Cards and Stationery product) will cover its attributable costs and make a positive contribution to institutional costs, citing to the non-public library reference, Estimated Cost Coverage Calculations. *Id.* at 1-2. She says the market for gift cards is highly competitive and fees must be kept low to compete with other retailers. *Id.* at 2-3. Gift cards are widely

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<sup>3</sup> The Postal Service asserts that during such an interim order, it would not change the limited set of gift cards sold or the locations where the cards are sold. *Id.* at 2 n.3.

<sup>4</sup> Notice of Filing of Nonpublic Library Reference USPS-LR-MC2014-26/NP1, June 9, 2014.

available from private firms and surveys of customers using the product found them convenient and would be bought again, although some customers were concerned about longer lines at the post office. *Id.* at 4-5. She further states the likely impact on small business is minimal because small businesses tend to use the gift cards and generally larger retail chains compete in the sale of gift cards. *Id.* at 5. Also, the impact on the market would be considerably smaller than three percent of the relevant market. *Id.*

Finally, she sees a nexus between the use of gift cards and the use of the mails for sending gift cards because a majority of gift cards purchased at post offices will be mailed. *Id.* at 6-7. The Commission's order authorizing the market test included the condition that the Postal Service report the type of gift cards sold (open or closed loop), within 30 days of the end of the fourth quarter of FY 2011 and semi-annually thereafter: the total and net revenues; volumes, including, separately, volumes sold with greeting cards; attributable costs; and an estimate of the percentage of gift cards mailed (or likely to be mailed). Order No. 721 at 15.<sup>5</sup> The Postal Service complied and filed its periodic reports in support of its claim that a large portion of gift cards are mailed, that their sale can reasonably be classified as an ancillary service, and thus qualifies as a postal service.

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<sup>5</sup> A second condition limited the market test to the sale of gift cards at the Postal Service's retail facilities, including its website. *Id.* at 14.

The Statement of Supporting Justification relies on the various survey data collected during the market test by the Postal Service both at the Commission's direction and on its own volition. The Postal Service found that 52 percent of the purchased gift cards were, or were expected, to be mailed and concluded that every 100 gift cards sold can be expected to generate more than 98 pieces of mail. Request, Attachment B at 8. A separate survey found that 67 percent of purchasers of gift cards believed it would be more convenient to mail gift cards purchased at the post office rather than from another retailer. *Id.* Also, as an alternative to sending cash through the mail, the Statement of Supporting Justification notes the sale of gift cards is very similar to the sale of money orders, long regarded as a postal service. *Id.* at 9. The Statement of Supporting Justification concludes that the selling of gift cards at post offices qualifies as a postal service since sales are ancillary to the delivery of letters and mailable packages. 39 U.S.C. 102(5). *Id.* at 10.

### **III. Commission Action**

*Conditional authorization to continue sales.* Market tests may be authorized for a total of up to 36 months including a one year extension. 39 U.S.C. 3641(d). Absent an order extending the market test, it must terminate June 27, 2014.<sup>6</sup> The Postal Service indicates that discontinuance of the market

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<sup>6</sup> The Postal Service recognizes that its June 9 Request was not filed sufficiently in advance of the market test expiration date to provide adequate time for public input and Commission review of its Request. By filing its Request so close to the expiration date of the market test, the Postal Service jeopardizes the continuation of the service. That risk is

test during the pendency of this proceeding would be inefficient as well as inconvenient to gift card customers. To avoid the disruption of service and inconvenience if service is discontinued pending the Commission's review of the Request, the Commission will conditionally approve the addition of Gift Cards to the competitive product list as a price category of the Greeting Cards, Gift Cards, and Stationery competitive product.<sup>7</sup> This interim Order merely preserves the status quo pending the completion of this proceeding. Ample opportunity to submit comments on the Request is being provided. Thus, no person will be prejudiced by this result. Accordingly, any interested person will have an opportunity to be heard and have his/her comments considered by the Commission as part of the record in this proceeding.

*Notice of filing.* The Commission establishes Docket No. MC2014-26 for consideration of matters raised by the Request. Interested persons may submit comments on whether the Postal Service's filing in the captioned docket is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR parts 3015 or 3020, subpart B. Comments are due no later than July 3, 2014. Reply comments are due no later than July 17, 2014. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

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unnecessary and is easily cured by a timelier filing, a point the Commission has previously made. See Order No. 1781, *supra*, at 3.

<sup>7</sup> The prices for Gift Cards currently charged by the Postal Service will apply during the pendency of this proceeding.

The Commission appoints Tracy N. Ferguson to represent the interests of the general public (Public Representative) in this case.

#### **IV. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket No. MC2014-26 for consideration of matters raised by the Postal Service's Request.

2. Pending completion of this proceeding, the Commission conditionally authorizes the proposed product Greeting Cards, Gift Cards, and Stationery as an addition to the competitive product list.

3. Comments of interested persons are due no later than July 3, 2014. Reply comments are due no later than July 17, 2014.

4. Pursuant to 39 U.S.C. 505, Tracy N. Ferguson is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Ruth Ann Abrams,**

*Acting Secretary.*